IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION No. 17614 of 2004

Between:

Pralaya Kaveri Bujjamma, W/o. Seenaiah,
Mandal Parishad, Bogolu, Nellore District, A.P.

..... PETITIONER

AND

1 Government of Andhra Pradesh, Rep. by its Secretary,
Panchayat Raj Department, Secretariat, Hyderabad.
2 Revenue Divisional Officer, Kavali, Nellore District.

3 The Chief Executive Officer, Zilla Parishad, Z.P. Office, Nellore,

Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of Mandamus, or any other appropriate Writ or Order or direction declaring : (a) that the Meeting held on 23rd August, 2004 by the second respondent in the Office of the Bogolu Mandal Parishad, to consider the No Confidence Motion against the Petitioner and the consequent resolution passed for removal of Petitioner from the post of President of Mandal Parishad, Bogolu, Nellore District though there was no Quorum for the Meeting in accordance with the provisions of Panchayat Raj Act, i.e., Sec. 245 of Panchayat Raj Act, as arbitrary, illegal, unjust and against the principles of natural justice,
(b) that the action of second respondent in forwarding the Resolution to the first respondent for issuance of notification for removal of the Petitioner from the post of President, Mandal Parishad, Bogolu, Nellore District, as arbitrary, illegal, unjust and

against the principles of natural justice, and consequently direct the respondents not to issue any Notification for removal of the Petitioner from the Post of President, Mandal Parishad, Bogolu, Nellore District.

Counsel for the Petitioner : Mr.B.VISWANATHA REDDY

Counsel for Respondents : G.P. FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the stage of admission, made the following :

ORDER:

Heard the learned counsel for petitioner and the learned counsel for respondents and both of them agreed for disposal of the writ petition finally at the stage of admission.

Assailing the action of the second respondent in considering the 'no confidence motion' passed against the petitioner and the consequent resolution removing the petitioner from the post of President of Mandal Parishad, Bagolu, the present writ petition is filed.

The only submission made by the learned counsel for petitioner placing reliance on the judgment of the Division Bench of this Court in GOGINENI KOTESWARA RAO v. GOVERNMENT OF A.P., that out of 14 members, 9 had attended the meeting and inasmuch as 2/3rd of 14 works out to fraction, namely 9.33 which does not constitute a quorum, and the required quorum to proceed with 'no confidence motion' is 10 as per the judgment referred above.

The learned counsel is ignorant of the explanation added to sub-sections (1) & (2) of Section 245 of A.P. Panchayat Raj Act and also to Rule 11 of Rules relating to Motion of No Confidence in Upa Sarpanch of Gram Panchayat or Vice President, President of Mandal Parishad or Vice-Chair Person/Chair Person of Zilla Parishad which were issued in G.O.Ms.No.200 PR & RD Department dated 28.4.1998, wherein it was mentioned that for the purpose of this rule, it is hereby clarified that in the determination of 2/3rd of the total number of members under this rule, any fraction

below 0.5 should be ignored and any fraction 0.5 or above 0.5 shall be taken as one. Admittedly in the present case, out of 14 members, the quorum of 2/3rd comes to 9.33 and .33 is below 0.5 and therefore it has to be ignored by taking the quorum as 9.

In the circumstances, I do not see any grounds to entertain the writ petition and the same is accordingly dismissed. No costs.

_____

A.GOPAL REDDY, J

Date: 30.9.2004

DA

To

1 The Secretary, Government of Andhra Pradesh,
Panchayat Raj Department, Secretariat, Hyderabad.
2 The Revenue Divisional Officer, Kavali, Nellore District.

3 The Chief Executive Officer, Zilla Parishad, Z.P. Office, Nellore,

Nellore District.

4 Two CCs to the G.P. for Panchayat Raj, High Court Buildings,

Hyderabad (OUT).

5 Two CD copies.